

OFFICE OF THE GENERAL COUNSEL  
Division of Operations-Management

MEMORANDUM OM 96-19

February 28, 1996

TO: All Regional Directors, Officers-in-Charge,  
and Resident Officers

FROM: B. Allan Benson, Acting Associate General Counsel

SUBJECT: Registration of Judgments in Light of *Fox Painting v. NLRB*

This is a reminder that in light of the Sixth Circuit's decision in *Fox Painting v. NLRB*, 16 F.3d 115 (1994), 144 LRRM 245, **we may no longer register judgments of the circuit courts in district courts located within the Sixth Circuit.** Accordingly, Casehandling Manual, Part III, § 10590.2 and 10593.5, as well as OM Memoranda 91-66 and 91-96, insofar as they concern the registration of supplementary backpay judgments, are modified with respect to the registration of such judgments in district courts located within the jurisdiction of the Sixth Circuit.

Where necessary, we may continue to register our backpay judgments in district courts located in all other circuits. However, please note that such registration may no longer be necessary in order to perfect liens against real property since, pursuant to Section 3201 of the Federal Debt Collection Procedures Act, 28 USC 3001, et seq., (FDCPA), such liens may be established by filing a certified copy of the supplemental judgment or an abstract of such judgment "in the manner provided for under 26 USC Section 6323(f) or (2)." These provisions in essence require that liens be recorded in the manner prescribed under applicable state law, generally in the office of the county recorder of deeds where the property is located.

Similarly, information that might otherwise be obtained through discovery, conducted pursuant to Rule 69 of the Federal Rules of Civil Procedure (which would first require registration of an underlying money judgment), may be obtained through use of Section 11 investigative subpoena processes. See, e.g., *NLRB v. Interstate Material Corp.*, 930 F.2d 4 (7th Cir. 1991) (the Board may use its investigative powers to obtain "everything it [could] seek [ ] from an

order compelling discovery.” Id. at 6; *NLRB v. Steinerfilm, Inc.*, 702 F.2d 14, 16 (1st Cir. 1983); *NLRB v. Alaska Pulp Corp.*, 149 LRRM 2684, 2689 (D.Ct. D.C. 1995).

Questions concerning these matters should be directed to the Contempt Litigation Branch or your Assistant General Counsel.

B. A. B.

Distribution: All Compliance Supervisors  
and Compliance Officers

cc: NLRBU

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